

10-11-06

CFW



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

MCFADDEN, DAVID H.

Serial No. **10/614,532**

Filed: **7 JULY 2003**

For: **SPEED COOKING OVEN**

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Examiner: **COCKS, JOSIAH C.**

Art Unit: **3749**

TRANSMITTAL

MAIL STOP: RCE

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Please file the following enclosed documents in the subject application:

1. This Transmittal with Certificate of Express Mail;
2. Amendment A;
3. Request for Response within the Third Month;
4. Terminal Disclaimer;
5. Check #5425 in the amount of \$1150.00 to cover the \$1020.00 Three Month Extension Fee, and the \$130.00 Terminal Disclaimer Fee;

**CERTIFICATE OF EXPRESS MAIL
EXPRESS MAIL NO. EQ 219177668 US**

I hereby certify that this paper or fee is being deposited with the United States Postal Service as Express Mail "Post Office to Addressee" service under 37 C.F.R. § 1.10 on the date indicated below and is addressed to Mail Stop: Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Date of Deposit: October 10, 2006

By: [Signature]

6. Copy of Office Action;
7. Copy of Interview Summary; and
8. Our return postcard which we would appreciate you date stamping and returning to us.

Filed herewith is a Request for Response Within the Third Month and a Terminal Disclaimer. Also enclosed is Check #5425 in the amount of \$1150.00 to cover the \$1020.00 fee for the Request for Response within the Third Month, and the \$130.00 fee for the Terminal Disclaimer.

Respectfully submitted,

October 10, 2006
Date



David A. Bolton

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ATTORNEY FOR APPLICANT

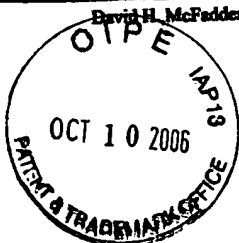


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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,532	07/07/2003	David H. McFadden	54330/322597	9062
23370	7590	04/07/2006		
JOHN S. PRATT, ESQ KILPATRICK STOCKTON, LLP 1100 PEACHTREE STREET ATLANTA, GA 30309			EXAMINER: COCKS, JOSIAH C	
			ART UNIT	PAPER NUMBER
			3749	
DATE MAILED: 04/07/2006				



Please find below and/or attached an Office communication concerning this application or proceeding.

RCVD APR 11 '06

KS Docketing

Docketed for: 5/10/06
Entered on: 4/18/06
Initials: [Signature]
Previously Entered: _____

Office Action Summary

OCT 10 2006



Application No.

10/614,532

Applicant(s)

MCFADDEN, DAVID H.

Examiner

Josiah Cocks

Art Unit

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— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on RCE and amendment filed 3/22/2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 95-109 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 95-109 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

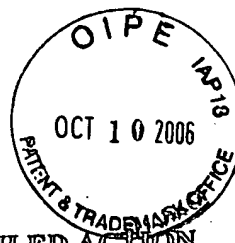
Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.



DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination ("RCE") under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's RCE submission and accompanying amendment filed on 3/22/2006 have been entered.

Terminal Disclaimer

2. The terminal disclaimer filed on 3/22/2006 disclaiming the terminal portion of any patent granted on this application that would extend beyond the expiration date of U.S. Patent No. 6,874,495 has been reviewed and is NOT accepted.

An attorney or agent, not of record, is not authorized to sign a terminal disclaimer in the capacity as an attorney or agent acting in a representative capacity as provided by 37 CFR 1.34 (a). See 37 CFR 1.321(b) and/or (c). Per the Revocation of Prior Powers of Attorney filed 12/14/2005, the attorney or agent, David Bolton, who signed the Terminal Disclaimer is no longer of record.

The person who signed the terminal disclaimer is not recognized as an officer of the assignee, and he/she has not been established as being authorized to act on behalf of the assignee. See MPEP § 324. It would be acceptable for a person, other than a recognized officer, to sign a

terminal disclaimer, provided the record for the application includes a statement that the person is empowered to sign terminal disclaimers and/or act on behalf of the organization.

Accordingly, a new terminal disclaimer which includes the above empowerment statement will be considered to be signed by an appropriate official of the assignee. A separately filed paper referencing the previously filed terminal disclaimer and containing a proper empowerment statement would also be acceptable.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 95-99, 101, 102, and 104-109 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,327,279 to Guibert ("Guibert") (cited by applicant).

Guibert discloses an invention substantially as described in applicant's claims 95-99, 101, 102, and 104-109. In particular, Guibert teaches a system and method of speed heating a food product with gas comprising the steps of providing a housing (10) defining a heating chamber (area within compartment 14), and providing at least three means (see Fig. 3 and holes of 14a, 14b, and 14c) for directing gas into the heating chamber. Heating means in the form of heaters (18 and 19) and a blower (15) and motor (16) are provided to selectively control a flow of air through the holes in compartment (14) to propel the air at high velocity causing collision in order

to rapidly heat food products placed therein (see col. 6, lines 21-56 and Fig. 2). Guibert also discloses conduits for directing gas to and from the chamber (As1 and As2, Fig. 2).

In regard to the recitation that the method relates to speed "cooking" a food product, the examiner does note that Guibert desired only to heat the food products contained within chamber and not "cook" them. However, the purpose for not cooking these products is so that they may be refrozen for later use (see col. 5, lines 29-37). Further, Guibert provides for the interrupted application of heat in order to preventing cooking of the food products and acknowledges that cooking would result if the heat source is not interrupted (see col. 6, line 65 through col. 7, line 17). It has been held that the elimination of a step and its function is obvious if the function is not desired. See MPEP 2144.04(II)(A). The examiner considers that it would be obvious to a person of ordinary skill in the art that were one to eliminate the heat interruption described in Guibert if one is not concerned with merely heating a food product to allow it to be refrozen. Accordingly, the person of ordinary skill would recognize that the method and system of Guibert would then be provided for cooking the food product.

In regard to the limitation of an "exposed surface of the food product," (claims 95 and 109) applicant does not define how the surface of the food product must be exposed. Accordingly, this limitation is at least met by a food product that is exposed to heat. The food products arranged in the tray (12) of Guibert clearly included surfaces that are exposed to the heat provided by the flow of hot air and thus clearly meet this limitation of applicant's claims.

Further in regard to the "exposed surface..." limitation as appears in the system claim 109, a food product is not positively recited in the claim. Instead this claim is merely limiting to the structure of the gas directing means, which is configured to direct gas in the manner recited

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to the food product. As noted above, the gas directing means of Guibert are considered to configured in the same manner as recited by applicant and would therefore function to direct gas to any exposed surface of a food product placed in the oven.

Alternatively, the food tray (12) of Guibert is clearly disclosed as having a removable lid (12A). The purpose of this lid is to seal the contents of tray during the heating process (see col. 5, lines 38-40). Applicant is unconcerned with sealing the food product during heating and accordingly does not include any lid over the food product. However, it has been held that the elimination of a step or element and its function is obvious if the function is not desired. See MPEP 2144.04(II)(A). In this case, a person of ordinary skill in the art unconcerned with sealing the contents of the tray would reasonably consider it obvious to therefore remove the lid and its associated sealing function during heating. Therefore, the recitation that the food product has an exposed surface does not patentably distinguish applicant's invention over Guibert.

In regard to claims 104-106, Guibert clearly discloses that the gas directed by blower (15) is propelled at high velocity (see Abstract). To have selected a specific velocity, such as that recited in claims 104-106, would be simply a matter of optimizing the prior art disclosure of high velocity and is not regarded as patentably distinct. See MPEP 2144.05 (II)(A).

5. Claims 100 and 103 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,060,701 to McKee et al. ("McKee").

Guibert teaches all the limitations of claims 100 and 103 except for a damper means and possibly for a variable speed motor for the blower.

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McKee teaches a speed cooking/heating oven in the same field of endeavor as Guibert. In McKee, it is recognized that a conduit (20) providing for the circulation of air (i.e. gas, see col. 3, lines 40-42) may include a damper to modify the air flow through the conduit. McKee also discloses the use of a variable speed blower but notes that a damper also desirably serves to provide a similar effect as a variable speed blower when a fixed speed blower is employed (see col. 5, lines 55-59).

Therefore, in regard to claims 100 and 103, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the oven of Guibert to incorporate the damper and variable speed blower as taught in McKee to desirably control the volume of air flow to provide the desired thermal energy for the cooking chamber (see McKee, col. 5, lines 50-59).

Double Patenting

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground

provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claim 109 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,874,495 ("495 patent").

Although the conflicting claims are not identical, they are not patentably distinct from each other because though claim 109 is broader in scope than claim 1 of the '495 patent it is claiming the same invention.

8. The prior Office action included double patenting rejections on the basis of "co-pending Application No. 10/614,532." However, as this application is Application No. 10/614,532, the statement of the grounds of the double patenting rejection in the prior Office action is clearly in error. As best can be determined, it appears the examiner intended to reference applicant's copending Application No. 10/614,710. However, review of the claims of both this application and copending Application No. 10/614,710 reveals no issues of double patenting between them. Accordingly, the prior double patenting rejection on the basis of "co-pending Application No. 10/614,532" is withdrawn.

Response to Arguments

9. Applicant's arguments filed 3/22/2006 have been fully considered but they are not persuasive.

Applicant argues that by amending the claims to recite that the food product has an "exposed surface" renders applicant's claims free of Guibert. For the reasons noted in the sections above, this argument is not persuasive.

Applicant also argues that Guibert does not show a method of cooking a food product. This argument is not persuasive. As has been noted, Guibert clearly discloses that the food products are heated and expressly notes that cooking would result were the heat supplied to the oven to be uninterrupted (see Guibert, at least col. 6, line 65 through col. 7, line 17). Accordingly, a person of ordinary skill in the art would reasonably understand that were cooking of the food product desired one would eliminate the heat interruption described in Guibert.

Applicant also argues that Guibert does not disclose colliding gas streams as recited in applicant's claims. However, far from "teaching away" from such colliding as alleged by applicant, Guibert clearly discloses that the gas/air streams passing through the angled portions of the compartments walls (14) are moving as high velocity and around the food product trays (12) (see Guibert, at least col. 6, lines 42-56). In circulating around the trays (12) the heat air flows would necessarily come into contact (i.e. collide) with one another in order to perform their intended function of rapidly transferring heat to the food product. Applicant points to the illustrated flow arrows of Fig. 2 of Guibert as some form of evidence that the flows do not collide. However, the examiner notes that at the very least these arrows indicate that the flow passing from panel (14b) would collide with the flow from panel (14c) in order to jointly exit the

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chamber formed by compartment (14) at the end of panel (14f) (as shown by the single arrow). Likewise, at the very least the flows from panel (14b) and panel (14a) would contact in order to exit at the end of panel (14e). Accordingly, this argument is not found persuasive.

Applicant appears to argue that McKee also does not disclose the colliding air flows as recited in applicant's claims. However, as noted above, such air flows are present in Guibert. McKee has been cited to show a variable speed motor/blower in an oven similar to that of Guibert. As applicant does not dispute the presence of such motor/blower, McKee is properly considered to show that for which it has been cited.

For the reasons noted, applicant's claims do not distinguish over the prior art of record.

Conclusion

10. This action is made non-final. A THREE (3) MONTH shortened statutory period for reply has been set. Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Josiah Cocks whose telephone number is (571) 272-4874. The examiner can normally be reached on weekdays from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg, can be reached at (571) 272-4828. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.


Application/Control Number: 10/614,532

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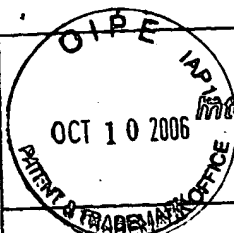
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jcc

March 30, 2006



JOSIAH COCKS
PRIMARY EXAMINER
ART UNIT 3749



Interview Summary

Application No.

10/614,532

Applicant(s)

MCFADDEN, DAVID H.

Examiner

Josiah Cocks

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All participants (applicant, applicant's representative, PTO personnel):

(1) Josiah Cocks (USPTO).(3) David McFadden (applicant).(2) David Bolton (applicant's representative).(4) Dean Russell (applicant's representative).Date of Interview: 02 October 2006.

Type: a) ☐ Telephonic b) ☐ Video Conference
c) ☒ Personal [copy given to: 1) ☒ applicant

2) ☒ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.
If Yes, brief description: _____

Claim(s) discussed: 95-109.Identification of prior art discussed: Guibert and McKee.

Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

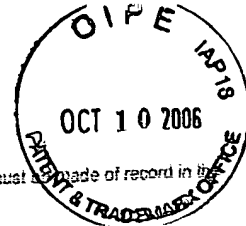

JOSEPH C. COCKS
PRIMARY EXAMINER

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required

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Summary of Record of Interview Requirements



Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record
A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.
All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

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Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicant's representatives and applicant contacted the examiner to discuss the merits of the Office action mailed 4/7/2006. Applicant's representative argued that Guibert did not disclose colliding gas-flows. Applicant's representatives and applicant argued that the flow arrangement identified by the examiner in Guibert would not produce colliding flow. The examiner asserted that at least two of the flows identified in Guibert would contact one another and that this contact was properly regarded as the recited "colliding." Applicant's representative also asserted that the the assertion by the examiner of what an "exposed surface" was in Guibert was not a proper characterization of that reference. The examiner disagreed and maintained the position in the prior Office action but would consider any arguments to the contrary in the written response. Upon submission of a proper amendment, the application will be subject to updated and possibly further search.